

## REMARKS

In the Action dated April 15, 2004, the Examiner notes that the Shortened Statutory Period set in the miscellaneous office letter mailed May 2, 2003 has been withdrawn as a result of the telephone interview which occurred on April 11, 2004 between the Examiner and the undersigned Attorney. The courtesies extended to the undersigned Attorney by the Examiner during that interview are greatly appreciated.

Next, the Examiner has objected to the specification, noting blanks at page 1 thereof which have been corrected by this Amendment.

Next, the Examiner has issued a non-statutory double patenting rejection of claims 1, 34 and 67 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,687,834. Applicant respectfully traverses that rejection and notes that, as amended herein, claims 1, 34 and 67 each now recite the ordered test phases including an initialization test phase for preparing the test environment for testing which is capable of being executed prior to an availability of the software application in a manner which is neither shown nor suggested by U.S. Patent No. 6,687,834 and Applicant thus urges that the claims of the present application are unobvious over the cited claim of U.S. Patent No. 6,687,834 and withdrawal of the Examiner's obviousness-type double patenting rejection is respectfully requested.

Next, the Examiner has rejected claims 1-6, 21-39, 54-72 and 87-99 under 35 U.S.C. § 102(b) as being anticipated by *Tse*, U.S. Patent No. 5,742,754. That rejection, in so far as it might be applied to the claims as amended herein, is respectfully traversed.

Claims 1, 34 and 67, as noted above, have been amended to incorporate the feature indicated by the Examiner as allowable in claim 7, claim 40 and claim 73. Thus, claims 1-6 and 8-24, 34-39 and 41-57, and claims 67-72 and 74-90 are now believed to define patentable subject matter over this reference for the reasons set forth above with respect to the double patenting rejection. Additionally, claims 25-30, 58-63 and 91-96 have been canceled and the rejections of these claims are therefore rendered moot.

Addressing the remaining claims, claim 31 expressly recites the establishing of “an event-driven workflow manager for automatically managing said automated software test environment in response to a receipt of events...” and that thereafter, testing of others in the plurality of tests are suspended “in response to a failure of said validation procedure to validate said result of said one of said plurality of tests...” Applicant has carefully examined *Tse* and notes there is no discussion therein of the creation of an event-driven workflow manager and that even if the Examiner desires to assert that it is inherent that an event must occur to begin the testing procedure set forth within *Tse*, nothing within *Tse* shows or suggest the management of that automated software test in response to receipt of “events”, indicating that the data processing system automated software test environment of the present application is responsive to multiple events in a manner not shown, suggested or anticipated by *Tse*. Further, the Examiner’s position that *Tse* shows or suggests the suspension of execution of portions of the plurality of test being executed in response to a failure is not consistent with the teaching of *Tse*. For example, at column 10, lines 19 *et seq.*, the failure log relied upon by the Examiner is noted as beginning an analysis “after all of the servant computer systems identified in the initialization request have completed executing for a particular job...” thus, *Tse* not only fails to teach an event-driven workflow manager which is responsive to a plurality of events, but also fails to show or suggest the suspension of the testing procedure in response to a failure as *Tse* expressly notes that the failure log is not defined until after all computers have completed executing. Consequently, Applicant urges that this reference cannot be said to show, suggest or anticipate the invention set forth within claim 31.

Similarly, claim 32 also recites an event-driven workflow manager which is responsive to multiple events and further recites termination of execution of other tests in response to failure of the validation process. For the reasons set forth above, Applicant urges that this claim also cannot be said to be shown, suggested or anticipated by the *Tse* reference and withdrawal of this rejection is respectfully requested.

Claim 33 recites the spawning of a new process “in response to said execution of a validation procedure to determine a result of execution of one of said plurality of test...” and the Examiner relies upon reference number 155 in Figure 5A of the *Tse* reference. Applicant urges the Examiner to carefully consider that the “spawning” described at step 155 of *Tse* is expressly

described by *Tse* as the process by which the test coverage build process occurs. This is set forth within *Tse* at columns 7, line 37 *et seq.* as “in other words, the software product being tested is now converted from source code to compiled binary code.” Applicant urges that the unfortunate choice of the word “spawn” by *Tse* cannot be a sufficient basis for a rejection of claim 33 which expressly recites spawning a new process “in response to said execution of a validation procedure to determine a result of execution of said one of said plurality of test...”and withdrawal of this rejection is similarly requested.

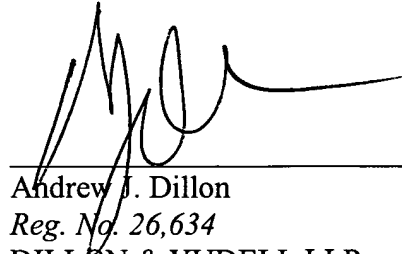
Claims 64-66 recite data processing system claims which are substantially identical in scope to claims 31-33 and, for the reasons set forth above, the Examiner’s rejection of these claims is also not believed to be well-founded. Withdrawal of this rejection is also respectfully requested.

Finally, claims 97-99 recite computer program product claims which are substantially identical in scope to claims 31-33 and 64-66 and, for the reasons set forth above, are not believed to be shown, suggested or anticipated by the *Tse* reference. Withdrawal of the Examiner’s rejection of these claims is respectfully requested.

Applicant notes with appreciation the Examiner’s indication of the allowability of claims 7-20, 40-53 and 73-86; however, for the reasons set forth above, Applicant urges that claims 1-6, 8-24, 31-39, 41-57, 64-72, 74-90 and 97-99 all recite patentable subject matter and withdrawal of the Examiner’s rejection and passage of this application to issue is respectfully requested.

A request for a one-month extension of time and a check for the appropriate fees are included herewith. No additional extension of time is believed to be required. However, in the event that an additional extension of time required, please charge those fees and any other required fees to **IBM Corporation Deposit Account Number 09-0447**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew J. Dillon', is written over a horizontal line.

Andrew J. Dillon  
*Reg. No. 26,634*  
DILLON & YUDELL LLP  
8911 North Capital of Texas Highway  
Suite 2110  
Austin, Texas 78759  
Telephone (512) 343-6116  
Facsimile (512) 343-6446

ATTORNEY FOR APPLICANTS